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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,	CR 18-139-BLG-SPW
Plaintiff,	
vs.	OFFER OF PROOF
FRANCISCO MORALES,	
Defendant.	

The United States, represented by Assistant U.S. Attorney Thomas K. Godfrey, files the following offer of proof in anticipation of the change of plea hearing set in this case on February 12, 2019.

THE CHARGES

The defendant, Francisco Morales., is charged by indictment in Count I with conspiracy to possess with intent to distribute methamphetamine, and in Count II with possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and 846.

PLEA AGREEMENT

There is a plea agreement in this case. Morales will plead guilty to Count II of the indictment. The United States will move to dismiss Count I of the indictment at sentencing, if the Court accepts the plea agreement. The United States presented all formal plea offers to Morales in writing. The plea agreement entered into by the parties and filed with the Court represents, in the government's view, the last and most favorable offer extended to the defendant. *See Missouri v. Frye*, 566 U.S. 134 (2012).

ELEMENTS OF THE CHARGES

In order for Morales to be found guilty of Count II, possession with intent to distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1), the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly possessed methamphetamine; and

Second, the defendant possessed it with the intent to distribute it to another person.

Additionally, while not a formal element of the offense, the government must prove beyond a reasonable doubt that the defendant possessed with the intent to distribute at least 50 grams of actual methamphetamine or 500 grams of more of a substance containing a detectable amount of methamphetamine.

PENALTIES

Count II of the indictment carries a mandatory minimum penalty of ten years to life imprisonment, a \$10,000,000 fine, at least five years of supervised release, and a \$100 special assessment.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the United States would prove the following:

The DEA and EMHIDTA were investigating Francisco Morales for methamphetamine distribution in Billings, Montana. In October 2018, the DEA intercepted two packages of methamphetamine in Texas that were being mailed from Texas to the defendant in Billings. The total methamphetamine recovered from the two packages was 2,013 grams of methamphetamine.

Investigators received information from DEA agents in McAllen, Texas, that a phone call had been made to Morales. During the phone conversation Morales discussed the shipment of the aforementioned two packages that were known to contain methamphetamine. Morales asked about the packages and stated that he had not received them yet. Morales confirmed that he had the tracking numbers, and Morales stated that the last time he had checked the packages they were in transition to their next location. Also sent by McAllen agents were text messages to and from Morales about packages being sent, and payments made.

A controlled delivery of the methamphetamine to Morale's address in Billings, Montana was conducted on October 29, 2018. Morales was not present but was arrested shortly after. On October 30, 2018 Morales was interviewed by the DEA. He stated that from March to October of 2018 he had received and distributed multiple pounds of methamphetamine in the Billings area. He admitted he was waiting for another delivery of methamphetamine when he was arrested.

DATED this 8th day of February, 2019.

KURT G. ALME
United States Attorney

/s/ Thomas K. Godfrey
THOMAS K. GODFREY
Assistant U.S. Attorney